

REMARKS

Upon entry of the amendments, claims 2-25 will be pending in the above-identified application. Claims 2 and 3 have been amended to clarify the subject matter regarded as the invention according to the Examiner's suggestion. Applicants submit that the amendments are supported throughout the specification as originally filed, and therefore, no new matter is added by these amendments.

Applicants gratefully acknowledge the Examiner's indication that claim 25 is allowable and that claims 21-24 would be allowable if re-written in independent form. Applicants further gratefully acknowledge the Examiner's suggested amendment to claim 2 and indication that upon making such amendment claim 2 would be allowed. While claim 3 was not specifically addressed by the Examiner, it is believed that claim 3 would be allowed upon amending claim 3 similar to that suggested for claim 2.

Rejections Under 35 U.S.C. §103

Claims 2-5 and 8-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Truax (CLASP-LESS™ Appliance System).

Applicants respectfully disagree that the claimed invention would have been *prima facie* obvious to one of ordinary skill in the art in view of the Truax reference, since the cited reference would fail to teach or suggest each and every element of the claimed invention. Truax is directed to an appliance system including plastic trays of various thicknesses. Truax, however, does not teach different geometries with respect to the cavities of successive appliances. In particular, Truax at least fails to teach "generating a patient removable appliance for each of the three or more predetermined positions, said appliance having cavities and wherein the cavities of successive ones of the plurality appliances have different geometries shaped to receive and resiliently reposition teeth from one arrangement to a successive arrangement", as recited in claim 2.

Nevertheless, although Applicants respectfully disagree with the rejections and do not acquiesce to any reasoning provided by the Examiner, claims 2 and 3 have been amended as

suggested by the Examiner in order to advance prosecution of the present case. As amended, claim 2 is directed to a method for fitting a set of upper and lower teeth in a masticatory system of a patient, comprising: modeling a set of upper and lower teeth in a masticatory system of a patient in three or more different predetermined positions prior to a stage of treatment; and generating a patient removable appliance for each of the three or more predetermined positions, said appliance having cavities and wherein the cavities of successive ones of the plurality appliances have different geometries shaped to receive and resiliently reposition teeth from one arrangement to a successive arrangement, wherein said stage of treatment comprises successively applying the appliances to the patient's teeth. As indicated by the Examiner, the method of current claim 2 is not taught or suggested in the prior art and will therefore be allowable. Claim 3 has been similarly amended and will be allowable for a similar rationale.

Accordingly, Applicants respectfully request that the rejections of claims 2-5 and 8-19 under 35 U.S.C. §103(a) be withdrawn and the claims allowed.

Claims 6 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Truax (CLASP-LESS™ Appliance System) in view of Duret *et al.* (U.S. Patent No. 4,611,288).

As set forth above, while Applicants respectfully disagree with the rejections and do not acquiesce to any reasoning provided by the Examiner, claims 2 and 3 have been amended as suggested by the Examiner in order to advance prosecution of the present case. Claims 6 and 20 will be allowable at least for depending from allowable independent claims 2 and 3.

Accordingly, Applicants respectfully request that the rejections of claims 6 and 20 under 35 U.S.C. §103(a) be withdrawn and the claims allowed.

Claim 7 is rejected under 35 U.S.C. §103(a) as being unpatentable over Truax (CLASP-LESS™ Appliance System) in view of Andreiko *et al.* (U.S. Patent No. 5,683,243).

As set forth above, Applicants respectfully disagree with the rejections and do not acquiesce to any reasoning provided by the Examiner. However, in order to advance prosecution of the present case, claims 2 and 3 have been amended as suggested by the Examiner. Claim 7 will be allowable at least for depending from allowable independent claims 2 or 3.

Accordingly, Applicants respectfully request that the rejection of claim 7 under 35 U.S.C. §103(a) be withdrawn and the claim allowed.

CONCLUSION


In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 206-467-9600.

Respectfully submitted,

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